

**ASSEMBLY BILL**

**No. 2613**

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**Introduced by Assembly Member Saldana**

February 19, 2010

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An act to amend Section 53069.4 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2613, as introduced, Saldana. Local government: fines and penalties: assessments.

Existing law authorizes the legislative body of a local agency to make any violation of any ordinance enacted by the local agency subject to an administrative fine or penalty, as specified.

This bill would authorize a local agency to, after notice and public hearing, specially assess any fines or penalties not paid after demand by the local agency against real property owned by the person owing those fines or penalties. The bill would provide that the assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as are provided for ordinary county taxes, and would authorize the local agency to record a lien against the property.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 53069.4 of the Government Code is  
2     amended to read:

1 53069.4. (a) (1) The legislative body of a local agency, as the  
2 term “local agency” is defined in Section 54951, may by ordinance  
3 make any violation of any ordinance enacted by the local agency  
4 subject to an administrative fine or penalty. The local agency shall  
5 set forth by ordinance the administrative procedures that shall  
6 govern the imposition, enforcement, collection, and administrative  
7 review by the local agency of those administrative fines or  
8 penalties. Where the violation would otherwise be an infraction,  
9 the administrative fine or penalty shall not exceed the maximum  
10 fine or penalty amounts for infractions set forth in subdivision (b)  
11 of Section 25132 and subdivision (b) of Section 36900.

12 (2) The administrative procedures set forth by ordinance adopted  
13 by the local agency pursuant to paragraph (1) shall provide for a  
14 reasonable period of time, as specified in the ordinance, for a  
15 person responsible for a continuing violation to correct or otherwise  
16 remedy the violation prior to the imposition of administrative fines  
17 or penalties, when the violation pertains to building, plumbing,  
18 electrical, or other similar structural or zoning issues, that do not  
19 create an immediate danger to health or safety.

20 (3) (A) *If the owner of real property fails to pay the fines or*  
21 *penalties upon demand by the local agency, the local agency may,*  
22 *after notice and public hearing, order the fines or penalties to be*  
23 *specially assessed against the parcel. The assessment may be*  
24 *collected at the same time and in the same manner as ordinary*  
25 *county taxes are collected, and shall be subject to the same*  
26 *penalties and the same procedure and sale in case of delinquency*  
27 *as are provided for ordinary county taxes. All laws applicable to*  
28 *the levy, collection, and enforcement of county taxes are applicable*  
29 *to the special assessment.*

30 (B) *If the local agency specially assesses the cost of the*  
31 *abatement against the parcel, the agency also may cause a notice*  
32 *of abatement lien to be recorded. The notice shall, at a minimum,*  
33 *identify the record owner or possessor of property, set forth the*  
34 *last known address of the record owner or possessor, set forth the*  
35 *date upon which assessment was ordered by the local agency, and*  
36 *include a description of the real property subject to the lien and*  
37 *the amount of the lien.*

38 (C) *If the local agency does not cause the recordation of a notice*  
39 *of lien pursuant to subdivision (B), and any real property on which*  
40 *the assessment has been imposed has been transferred or conveyed*

1 to a bona fide purchaser for value, or a lien on a bona fide  
2 encumbrancer for value has been created and attaches to that  
3 property, prior to the date on which the first installment of county  
4 taxes would become delinquent, then the assessment shall not  
5 result in a lien against that real property but shall be transferred  
6 to the unsecured roll for collection.

7 (D) Recordation of a notice of abatement lien pursuant to  
8 subparagraph (B) has the same effect as recordation of an abstract  
9 of a money judgment recorded pursuant to Article 2 (commencing  
10 with Section 697.310) of Chapter 2 of Division 2 of Title 9 of Part  
11 2 of the Code of Civil Procedure. The lien created has the same  
12 priority as a judgment lien on real property and continues in effect  
13 until released. Upon order of the local agency, or any officer  
14 authorized by the local agency to act on its behalf, an abatement  
15 lien created under this section may be released or subordinated  
16 in the same manner as a judgment lien on real property may be  
17 released or subordinated.

18 (b) (1) Notwithstanding the provisions of Section 1094.5 or  
19 1094.6 of the Code of Civil Procedure, within 20 days after service  
20 of the final administrative order or decision of the local agency is  
21 made pursuant to an ordinance enacted in accordance with this  
22 section regarding the imposition, enforcement or collection of the  
23 administrative fines or penalties, a person contesting that final  
24 administrative order or decision may seek review by filing an  
25 appeal to be heard by the superior court, where the same shall be  
26 heard de novo, except that the contents of the local agency's file  
27 in the case shall be received in evidence. A proceeding under this  
28 subdivision is a limited civil case. A copy of the document or  
29 instrument of the local agency providing notice of the violation  
30 and imposition of the administrative fine or penalty shall be  
31 admitted into evidence as prima facie evidence of the facts stated  
32 therein. A copy of the notice of appeal shall be served in person  
33 or by first-class mail upon the local agency by the contestant.

34 (2) The fee for filing the notice of appeal shall be as specified  
35 in Section 70615. The court shall request that the local agency's  
36 file on the case be forwarded to the court, to be received within  
37 15 days of the request. The court shall retain the fee specified in  
38 Section 70615 regardless of the outcome of the appeal. If the court  
39 finds in favor of the contestant, the amount of the fee shall be  
40 reimbursed to the contestant by the local agency. Any deposit of

1 the fine or penalty shall be refunded by the local agency in  
2 accordance with the judgment of the court.

3 (3) The conduct of the appeal under this section is a subordinate  
4 judicial duty that may be performed by traffic trial commissioners  
5 and other subordinate judicial officials at the direction of the  
6 presiding judge of the court.

7 (c) If no notice of appeal of the local agency's final  
8 administrative order or decision is filed within the period set forth  
9 in this section, the order or decision shall be deemed confirmed.

10 (d) If the fine or penalty has not been deposited and the decision  
11 of the court is against the contestant, the local agency may proceed  
12 to collect the penalty pursuant to the procedures set forth in its  
13 ordinance.